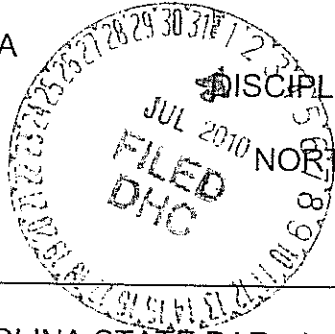


NORTH CAROLINA
WAKE COUNTY



BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
10 DHC 25

THE NORTH CAROLINA STATE BAR,)
Plaintiff)

v.)

NATHANAEL K. PENDLEY, Attorney,)
Defendant)

COMPLAINT

Plaintiff, complaining of Defendant, alleges and says:

1. Plaintiff, the North Carolina State Bar (hereinafter "State Bar"), is a body duly organized under the laws of North Carolina and is the proper party to bring this proceeding under the authority granted it in Chapter 84 of the General Statutes of North Carolina, and the Rules and Regulations of the North Carolina State Bar promulgated thereunder.

2. Defendant, Nathanael K. Pendley (hereinafter "Defendant"), was admitted to the North Carolina State Bar on November 11, 1988 and is, and was at all times referred to herein, an Attorney at Law licensed to practice in North Carolina, subject to the rules, regulations, and Rules of Professional Conduct of the North Carolina State Bar and the laws of the State of North Carolina.

3. During the times relevant herein, Defendant actively engaged in the practice of law in the State of North Carolina and maintained a law office in Clemmons, Forsyth County, North Carolina.

FIRST CLAIM FOR RELIEF

4. The allegations of paragraphs 1 – 3 are incorporated by reference as if fully set forth herein.

5. In March of 2008, Defendant was retained to represent Kelvin Jones ("Mr. Jones") in a criminal matter.

6. Defendant was paid \$2,650 to represent Mr. Jones in this matter.

7. Defendant failed to return several telephone calls from Mr. Jones and from Mr. Jones' fiancé inquiring on behalf of Mr. Jones about the status of Mr. Jones' case.

8. In October 2008, Mr. Jones' fiancé called Defendant to request that Defendant deliver to Mr. Jones records and documents from Mr. Jones' client file.

9. Defendant failed to respond to this request for documents.

10. On November 10, 2008, Mr. Jones filed a fee dispute petition with the North Carolina State Bar's Attorney Client Assistance Program: petition number 08FD0683.

11. On November 12, 2008, Defendant was served with the Notification of Mandatory Fee Dispute Resolution, which notified Defendant that his participation in fee dispute resolution was mandatory and requested his response to the petition within 15 days of Defendant's receipt of the notification.

12. Defendant failed to respond to the fee dispute petition and to participate in fee dispute resolution.

13. On December 10, 2008, the State Bar sent a follow-up letter to Defendant notifying Defendant that his response to the notice of fee dispute was late.

14. Defendant failed to respond to the follow-up letter.

15. On December 17, 2008, the State Bar opened grievance file number 08G1547 against Defendant alleging rule violations in his representation of Mr. Jones.

16. On February 3, 2009, the State Bar served Defendant with a letter of notice in grievance file number 08G1547. The Letter of Notice notified Defendant that his response was mandatory and that his response was due within 15 days of his receipt of the Letter of Notice – on February 18, 2009.

17. Defendant failed to respond to the Letter of Notice.

18. On March 6, 2009, the State Bar sent a follow-up letter to Defendant, notifying Defendant that he had not responded to the Letter of Notice and that he must respond by March 16, 2009.

19. Defendant failed to respond to the follow-up letter.

20. In or about March 2009, the State Bar Councilor for District 21 attempted to contact Defendant to emphasize to Defendant that he is required by the Rules of Professional Conduct to respond to the Letter of Notice.

21. Thereafter, Defendant still did not respond to the Letter of Notice.

THEREFORE, Plaintiff alleges that Defendant's foregoing actions constitute grounds for discipline pursuant to N. C. Gen. Stat. §84-28(b)(2) in that Defendant violated one or more of the Rules of Professional Conduct in effect at the time of the conduct as follows:

- (i) By failing to return calls from Mr. Jones and his fiancé inquiring about the status of the case, Defendant failed to keep the client reasonably informed about the status of the matter in violation of Rule 1.4(a);
- (ii) By failing to respond to Mr. Jones' request for documentation from his file, Defendant failed to promptly comply with reasonable requests for information in violation of Rule 1.4(a) and failed to surrender papers and property to which the client is entitled in violation of Rule 1.16(d);
- (iii) By failing to respond to the fee dispute petition filed by Mr. Jones, Defendant failed to participate in good faith in the fee dispute resolution process in violation of Rule 1.5(f);
- (iv) By failing to respond to the State Bar's 14 January 2009 Letter of Notice, its 6 March 2009 follow-up letter and the State Bar Councilor's communication, Defendant failed to respond to a lawful demand for information from a disciplinary authority in violation of Rule 8.1(b).

SECOND CLAIM FOR RELIEF

22. The allegations of paragraphs 1 – 21 are incorporated by reference as if fully set forth herein.

23. In April of 2008, Gina Bridgeford ("Ms. Bridgeford") retained Defendant to represent Roger Walsh ("Mr. Walsh").

24. Ms. Bridgeford paid Defendant \$8,000 to take the necessary steps to obtain a new trial for Mr. Walsh in a state criminal matter in which he was recently convicted.

25. Defendant failed to perform any substantive work on Mr. Walsh's behalf.
26. Defendant failed to respond to telephone calls and emails from Mr. Walsh and Ms. Bridgeford.
27. Defendant did not comply with Mr. Walsh's request for his client file.
28. On November 4, 2008, Ms. Bridgeford filed a fee dispute petition with the North Carolina State Bar's Attorney Client Assistance Program: petition number 08FD0672.
29. On November 7, 2008, Defendant was served with the Notification of Mandatory Fee Dispute Resolution which notified Defendant that his participation in fee dispute resolution was mandatory and requested his response to the petition within 15 days of Defendant's receipt of the notification.
30. Defendant failed to respond to the Notification of Mandatory Fee Dispute Resolution and failed to participate in fee dispute resolution.
31. On December 17, 2008, the State Bar opened grievance file number 08G1547 against Defendant alleging rule violations in his representation of Mr. Walsh.
32. On February 3, 2009, the State Bar served Defendant with a letter of notice in grievance file number 08G1547. The Letter of Notice notified Defendant that his response was mandatory and that his response was due within 15 days of his receipt of the Letter of Notice – on February 18, 2009.
33. Defendant failed to respond to the Letter of Notice.
34. On March 6, 2009, the State Bar sent a follow-up letter to Defendant, notifying Defendant that he had not responded to the Letter of Notice and that he must respond by March 16, 2009.
35. Defendant failed to respond to the follow-up letter.
36. In or about March 2009, the State Bar Councilor for District 21 attempted to contact Defendant to emphasize to Defendant that he is required by the Rules of Professional Conduct to respond to the Letter of Notice.
37. Thereafter, Defendant still did not respond to the Letter of Notice.

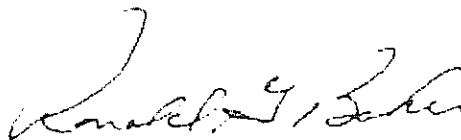
THEREFORE, Plaintiff alleges that Defendant's foregoing actions constitute grounds for discipline pursuant to N. C. Gen. Stat. §84-28(b)(2) in that Defendant violated one or more of the Rules of Professional Conduct in effect at the time of the conduct as follows:

- (i) By failing to perform any substantive work on behalf of Mr. Walsh, Defendant failed to pursue the matter for which he was retained with reasonable diligence and promptness in violation of Rule 1.3;
- (ii) By failing to respond to telephone calls and emails from Mr. Walsh and Ms. Bridgeford, Defendant failed to keep the client reasonably informed about the status of the matter in violation of Rule 1.4(a);
- (iii) By charging an \$8,000 fee and then failing to perform any substantive work on behalf of Mr. Walsh or to refund the fee, Defendant collected an excessive fee in violation of Rule 1.5(a) and failed to refund an unearned fee in violation of Rule 1.16(d);
- (iv) By failing to respond to the fee dispute petition filed by Ms. Bridgeford, Defendant failed to participate in good faith in the fee dispute resolution process in violation of Rule 1.5(f);
- (v) By failing to provide Mr. Walsh with a copy of his client file, Defendant failed to promptly comply with reasonable requests for information in violation of Rule 1.4(a) and failed to surrender papers and property to which the client is entitled in violation of Rule 1.16(d); and
- (vi) By failing to respond to the State Bar's 14 January 2009 Letter of Notice, its 6 March 2009 follow-up letter and the State Bar Councilor's communication, Defendant failed to respond to a lawful demand for information from a disciplinary authority in violation of Rule 8.1(b).

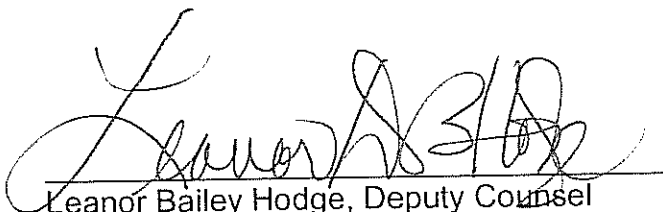
WHEREFORE, the State Bar prays that

1. Disciplinary action be taken against Defendant in accordance with N. C. Gen. Stat. §84-28(c) and 27 N.C.A.C. 1B §.0114 as the evidence on hearing may warrant,
2. Defendant be taxed with the costs permitted by law in connection with this proceeding, and
3. For such other and further relief as is appropriate.

This the 1st day of July, 2010.



Ronald G. Baker, Sr., Chair
Grievance Committee



Leann Bailey Hodge, Deputy Counsel
Attorney for Plaintiff
The North Carolina State Bar
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Raleigh, NC 27611
(919) 828-4620